

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

—
No. 6:22-cv-00005

Julius Cornelius Farris,
Plaintiff,

v.

Officer Jason Waldon et al.,
Defendants.

—

ORDER

Plaintiff Julius Farris, a former prisoner of the Anderson County Jail now out of confinement and proceeding pro se, filed this lawsuit complaining about alleged violations of his constitutional rights. The case was referred to United States Magistrate Judge K. Nicole Mitchell.

Plaintiff filed his lawsuit while incarcerated and consequently owed the full filing fee at the moment of filing. *Hatchet v. Nettles*, 201 F.3d 651, 654 (5th Cir. 2000). His subsequent release did not alter this obligation. *Gay v. Texas Department of Corrections*, 117 F.3d 240, 241-42 (5th Cir. 1997).

Because plaintiff was released from confinement after filing suit, withdrawals from an agency having custody of him was not possible. The magistrate judge therefore ordered plaintiff to pay the filing fee of \$350.00 in installments of \$10.00 per month. By separate order, the magistrate judge also directed plaintiff to file an amended complaint setting out a short and plain statement of his claim. To date, plaintiff has not complied with either order. His last contact with the court was through the filing of a notice of change of address in March of 2022.

The magistrate judge thereupon issued a report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the court. A copy of this report was sent to plaintiff at his last known address, but no objections have been received. The Fifth Circuit has explained that where a

letter is properly placed in the United States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciene v. Sun Life Assurance Company of Canada*, 931 F.3d 412, 420-21 and n.9 (5th Cir. 2019).

When there have been no timely objections to a magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'nccc*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report, and being satisfied that it contains no clear error, the court accepts its findings and recommendation. Plaintiff's claims are dismissed without prejudice for failure to prosecute or to obey an order of the court.

So ordered by the court on January 23, 2023.



J. CAMPBELL BARKER
United States District Judge